

A suit under this section cannot be maintained against a board of county school commissioners. *Weddle v. School Commissioners*, 94 Md. 342.

Where a sheriff is charged with permitting a lynching, his bond cannot be sued under this section. *Cocking v. Wade*, 87 Md. 529.

### The declaration.

A declaration under this section in a suit growing out of death of an infant child, held to be sufficient under art. 75, secs. 2 and 3, of the Code. *American Exp. Co. v. Denowitch*, 132 Md. 74.

The *narr.* need not allege that defendant's negligence was such that if death had not ensued, deceased would have been entitled to recover. *Philadelphia, etc., R. R. Co. v. State*, use *Bitzer*, 58 Md. 399.

The declaration may be amended by adding the state as legal plaintiff (so as to conform to titling and summons). *B. & O. R. R. Co. v. State*, use *Allison*, 62 Md. 481.

For a form of declaration in a suit for personal injuries caused by negligence, see art. 75, sec. 28, sub-sections 36 and 37.

### Generally.

An unincorporated association may be sued under this Article for damages upon a death resulting from the wrongful act, etc., of its agent performed or committed within the scope of his authority. *State v. Amalgamated Clothing Workers* (Judge Frank, Superior Court of Baltimore City), *Daily Record*, Sept. 14, 1939.

In action for wrongful death where death was from coronary thrombosis, alleged to have been caused by altercation between deceased and agent of defendant, held that testimony of heart specialist and proof of value of services of deceased were properly admitted. *Industrial Service Co. v. State*, *Daily Record*, June 10, 1939.

In action for death as result of fall over declivity at end of street, held there was evidence of negligence on part of city in not providing barrier or warnings of danger; passenger in automobile—contributory negligence of driver. *Agent. Variance. Evidence. Baltimore v. State*, 146 Md. 443.

In action for death of child struck by street car, held evidence of speed of car, lack of signal and vigilance was sufficient to go to jury; contributory negligence of child. *Last Clear Chance. State v. W., B. & A. R. Co.*, 149 Md. 445.

Where child died as result of defect in article purchased by parents, seller not being manufacturer of article, parents cannot sue under this section, since child, had it been injured, could not have sued; no privity of contract. Duty owed plaintiff. Vendor of article manufactured by another. *State v. Consol. Gas, etc., Co.*, 146 Md. 391.

This section referred to in construing art. 101, sec. 72—see notes thereto. *State v. Francis*, 151 Md. 150.

Art. 67 referred to in construing art. 101, sec. 72—see notes thereto. *Stark v. Gripp*, 150 Md. 658.

Art. 67 cited but not construed in *Lowe v. Lowe*, 150 Md. 603; *Barrett v. Indemnity Ins. Co.*, 152 Md. 258 (see notes to art. 101, sec. 72).

As to when mother may institute suit for tort against child, see art. 93, sec. 157.

Statutes of Texas so unlike Maryland statutes in regard to actions for wrongful death, that Maryland courts are not justified in enforcing cause of action which insurance company might have under Texas statutes. *London, etc., Co. v. Steamship Co.*, 161 Md. 145.

Action cannot be maintained in Maryland for wrongful death of person in District of Columbia, since law of District is not similar to law of Maryland. *Davis v. Ruzicka*, 170 Md. 112.

Declaration which fails to aver that suit was instituted within six months after death of wrongdoer is demurrable. *Dunnigan v. Cobourn*, 171 Md. 23.

Proprietor of store held liable for negligence in leaving trapdoor open after dark on unlighted porch, through which invitee fell, receiving fatal injury. *State v. Cavey*, 173 Md. 445.

This section referred to in *Greenwald, Inc., v. Powdermaker*, 170 Md. 180.

Cited in *State v. Sammon*, 171 Md. 192; *Allen v. State*, 173 Md. 650; *Miles v. State*, 174 Md. 295; *State v. Baltimore Contracting Co.*, *Daily Record*, June 14, 1939; *White v. State* (U. S. Circuit Court of Appeals, 4th Circuit), *Daily Record*, Sept. 1, 1939.

In action under this section for damages on account of death of pedestrian caused by motorist, held that, under the Maryland law, whether speed of motorist was reasonable under the circumstances or the pedestrian guilty of contributory negligence, was question for the jury. *White v. State*, 106F (2d) 392.

The right of action under this section and sec. 2 distinguished from, and compared with, that of personal representative of deceased under art. 93, sec. 109. History and purpose of the two enactments traced. They are entirely separate, independent and exclusive of each other. This section created a new cause of action which deceased never had. Construction of Lord Campbell's Act from which this section was taken. *Stewart v. United, etc., Co.*, 104 Md. 333; *Droneburg v. Harris*, 108 Md. 608; *Melitch v. United Rwy. & Elec. Co.*, 121 Md. 458; *White v. Safe Dep. & Tr. Co.*, 140 Md. 598.

As to the similarity of this section to Lord Campbell's Act, see also *Tucker v. State*, use *Johnson*, 89 Md. 475; *B. & O. R. R. Co. v. State*, use *Hauer*, 60 Md. 466; *Philadelphia,*